IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.Revn.No.1396 of 2006

Date of Decision: 24.4.2007

Harjit Kaur and others .....Petitioners

Versus

State of Punjab .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.BS Bhalla, Advocate
for the petitioners.

Mr.BS Sra, D.A.G. Punjab.

JUDGMENT

The present revision petition has been filed against the order dated 4.5.2006 vide which the learned Additional Sessions Judge, Amritsar ordered the framing of charge under Section 342 read with Section 149 of the Indian Penal Code against the petitioners. Petitioner No.1- Harjit Kaur is married sister of the husband of complainant-wife and petitioner No.2-Harjinder Singh is her husband; while petitioner No.3-Harpinder Kaur is unmarried sister of the husband.

The grievance of the petitioner is that petitioners No.1 and 2 are residing elsewhere and not in the matrimonial house of the concerned couple and further that petitioner No.3 is an unmarried girl who is pursuing her studies and cannot have anything at all to do with the dowry-related allegations. Reliance has been placed upon a ration card, Annexure P2 and identity card, Annexure P3 in support of the averments that petitioner No.3

is studying at Jammu.

The charge has already been framed by the learned Trial Judge. The pleas presently raised can be disposed of only on the basis of facts which, in turn, can be found out only at the trial. Such like matters cannot be taken cognizance of and adjudicated upon in the proceedings under Section 482 of the Code of Criminal Procedure. Even otherwise, these pleas represent the defence raised by the petitioners. The validity or otherwise of defence plea can be adjudicated upon only by the Trial Judge on the basis of the evidence adduced before it.

In the light of foregoing discussion, the present petition under Section 482 of the Code of Criminal Procedure shall stand dismissed. However, the petitioners shall be entitled to raise all the pleas before the learned Trial Court.

On a verbal request, the petitioners are allowed exemption from personal appearance from the concerned Court. However, the Trial Court would be competent to direct their personal presence if it is of the opinion that their presence is required at the trial.

Disposed of accordingly.

(S. D. ANAND)
JUDGE

April 24, 2007
SRM